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**Investment in an era of mega-
regionals:**

Alternative models, doing without ISDS

Peter Draper

peter.draper@tutwaconsulting.com



Overview

1. Critiques of ISDS
2. The South African Approach
3. The EU's Investment Court Proposal
4. Whither ISDS?



Critiques of ISDS: A one minute list...!

Rewards wealthy Foreigners

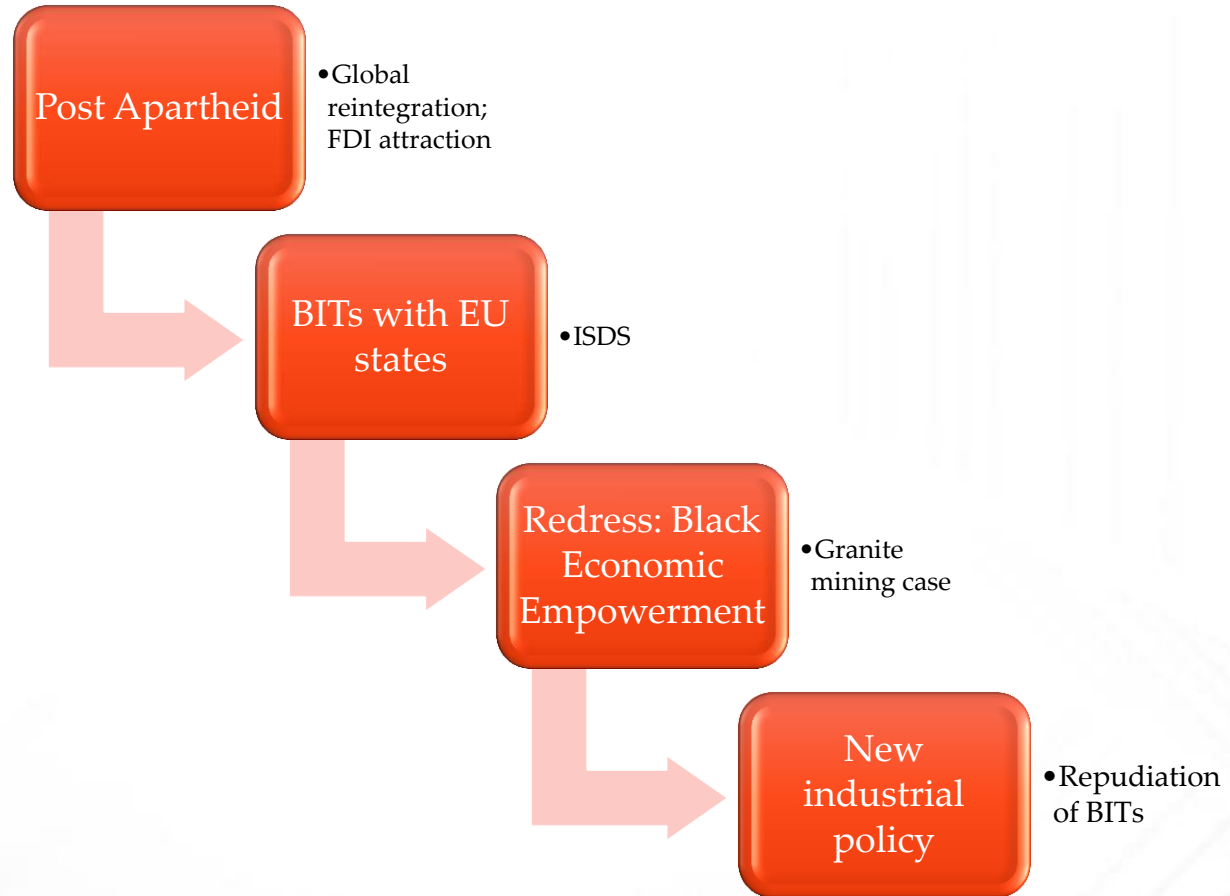
- No recourse for domestic investors
- Veto over states' 'right to regulate'
- Market value compensation too high

Arbitration problems

- Not transparent
- Biased towards investors

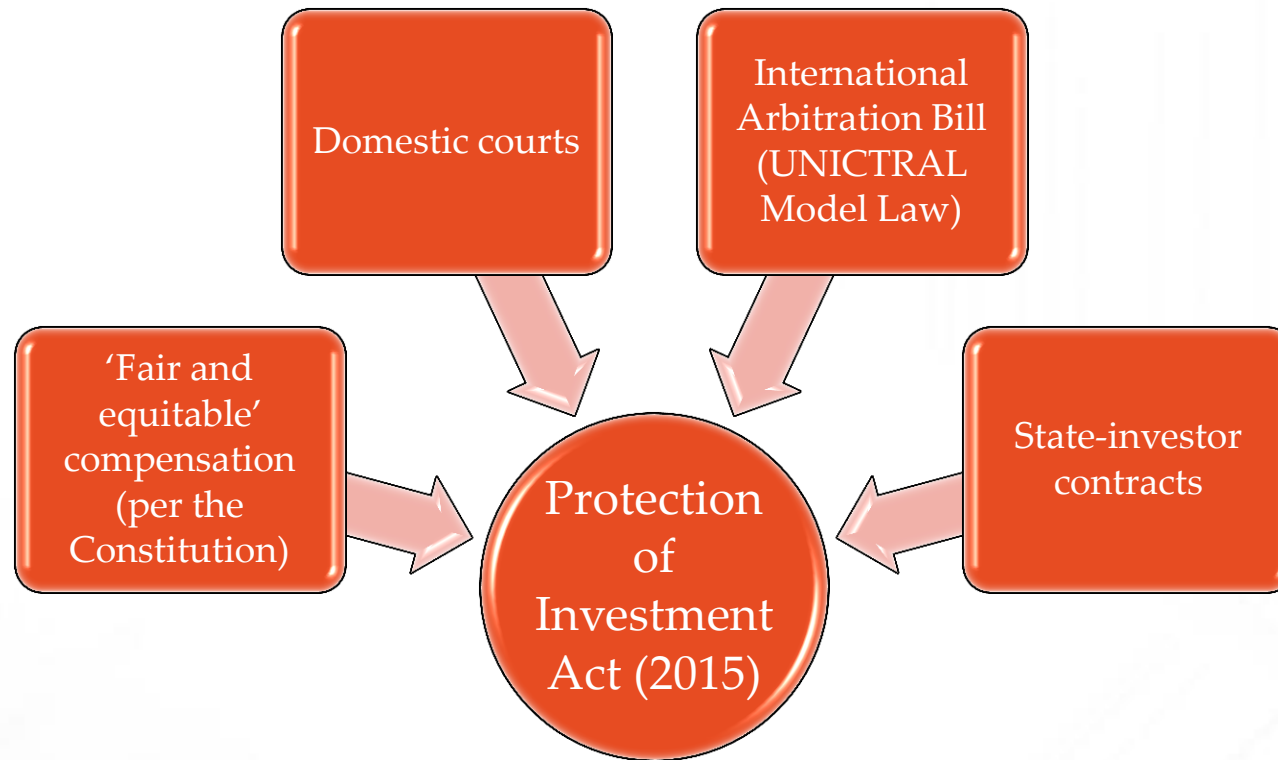


The South African Approach - 1





The South African Approach - 2



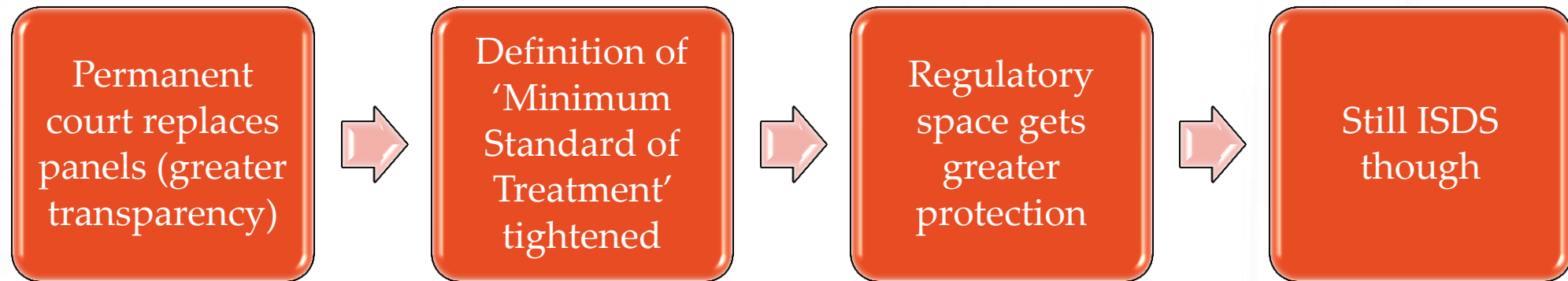


The Significance of the EU's Investment Court Proposal - 1

- EU highly critical of SA's approach
- Until TTIP negotiations commenced
- And ISDS was invoked in a number of EU countries
- Now the EU is proposing to reform ISDS through its Investment Court proposal



The EU's Investment Court Proposal - 2





Whither ISDS?

- TPP offers multiple dispute settlement options: BITS; TPP with ISDS and opt-outs for some members
- The pendulum is swinging towards reform
- And in some cases repudiation
- Can these dynamics be harnessed towards creating a MAI?





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